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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,053	09/01/2000	Peter S. MacLeod	07844-357001	5505

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EXAMINER
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NGUYEN, MADELEINE ANH VINH

ART UNIT	PAPER NUMBER
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2626

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/653,053

Applicant(s)

MACLEOD, PETER S.

Examiner

Madeleine AV Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-24, 26-45 and 47-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 22 and 43 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5-21, 23, 24, 26-42, 44, 45 and 47-63 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/29/05, 7/21/05.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed on December 20, 2005 have been fully considered but they are not persuasive for the following reasons:

a. Applicant remarks that Lipton does not automatically select a rendering intent. Rather, Lipton discloses that the rendering intent match whatever rendering intent was provided to the process in the Profile Header. Thus there is no selection occurs.

It is noted that the color profile objects 29 from the document are stored as document entries in the pool 32 to distinguish them from the system entries which are stored in the system profile folder 30 (Fig.2). The color profile manager 28 in the graphics system 22 selects the rendering intent based on the step 64 whether the color profile object's rendering intent of the system matches the rendering intent specified in the profile header 31b (Fig.5). Thus the selection occurs.

b. Applicant remarks that the rendering intent in the profile header is specified by the user as one way to modify the color profile object. Therefore, no automatic selection occurs.

It is noted that step 64 happens after step 60 that is whether both the color profile objects match the modification date. Only when the answer is yes, the color profile manager 28 automatically selects the rendering intent based on the result of step 64 without any input from the user or client. Thus, automatic selection occurs in the graphics system 22 made by the color profile manager 28.

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c. Applicant remarks that the use of the rendering intent provided in the profile header does not constitute a selection based on the color characteristics of the output device. The rendering intent specified in the profile header is not a color characteristic of the device.

Step 64 should be based on the rendering intent of the device in order for the color profile manager 28 to automatically select the rendering intent. In other words the automatic selection is based on both the rendering intent of the output device of the system and the rendering intent provided in the profile header. Since the rendering intent of the output device is also a color characteristic of the output device, the automatic selection of the rendering intent is based on the color characteristic of the output device.

Furthermore, “automatically selecting a rendering intent” should be clarified since that can be selected by a user. Zandee et al (US Patent No. 5,872,895) discloses a method for object based color matching wherein the user needs to select the automatic rendering intent (col. 5, lines 38-46). Zandee further teaches, “If a user has not selected a business/graphics or photographic rendering intent, this leaves only automatic as the selected rendering intent ...” (col. 5, line 66 – col. 6, line 1).

In addition, it is noted that the claims must be given their broadest reasonable interpretation. During patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541m 550-51 (CCPA 1969).

Therefore, the rejection of claims 1, 22 and 43 is maintained.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 22, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipton (US Patent No. 5,835,098).

Concerning claim 22, Lipton discloses an apparatus (Figs.1-2) comprising means (31, Fig.2) for identifying a first device color profile associated with an output device (50-60, Fig.5; col. 3, line 48 – col. 4, line 56; col. 5, line 28 – col. 6, line 19); and means (28, Fig.1) for automatically selecting a rendering intent based on the color characteristics of the output device, the color characteristics being defined by the first device color profile (64-68, Fig.5; col. 6, lines 7-10; col. 6, lines 19-27).

Lipton does not specifically teach the selection of a rendering intent from a plurality of rendering intents. However, it was a matter of well known in the art that there are a plurality of rendering intents to be selected based on the color characteristics of the profile device. In addition, Lipton teaches that the rendering intent can be easily changed (col. 6, lines 7-8) and when the rendering intent of the profile object does not match the rendering intent in the device profile, the color profile manager 28 changes the color profile object's rendering intent to match the specified rendering intent in the device profile (64-66, Fig.5). That means there are at least 2

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or more rendering intents in order for the color profile manager to automatically select or change different rendering intent which can match the rendering intent specified in the device profile. It would have been obvious to one skilled in the art at the time the invention was made to consider Lipton teaches the selection of a rendering intent from a plurality of rendering intents since the fact that the apparatus can change the rendering intent indirectly shows that there are a plurality of rendering intents for the color profile manager 28 to select in order to match the rendering intent in the device profile.

Claim 1 is method claim of apparatus claim 22. Claim 1 is rejected for the same rationale set forth for claim 22.

Concerning claim 43, Lipton discloses a computer program product, tangibly embodied on a computer readable medium (col. 1, lines 14-19; col. 6, lines 59-63; col. 8, lines 16-19), comprising instructions operable to cause a processor to perform the operations as discussed in claims 1 and 22 above.

#### ***Allowable Subject Matter***

3. Claims 2-3, 5-21, 23-24, 26-42, 44-45 and 47-63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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- a. Zandee et al (US Patent No. 5,872,895) discloses a method for object based color matching wherein the user can select the automatic rendering intent.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeleine AV Nguyen whose telephone number is 571 272-7466. The examiner can normally be reached on Monday, Tuesday, Thursday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on 571 272-7471. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Madeleine AV Nguyen". The signature is fluid and cursive, with the first name "Madeleine" and last name "Nguyen" being more prominent.

Madeleine AV Nguyen  
Primary Examiner  
Art Unit 2626

March 3, 2006